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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,130	10/16/2003	Sean Thomas Clark	9323M	7351

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

SUHOL, DMITRY

ART UNIT PAPER NUMBER

3714

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,130

Applicant(s)

CLARK ET AL. *on*

Examiner

Dmitry Suhol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibson et al '488. Gibson discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 1-4, cab section 2 and toy chest area 9) as required by claim 1, a first three dimensional interactive aide (steering wheel 4) as required by claim 1, a second three dimensional interactive aide (toys and books as described in col. 4, lines 56-58) as required by claim 1. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 2, is described in col. 4, lines 29-31 and lines 56-58, respectively. A first and second educational aide providing information regarding a first aspect of child development and a second aspect of child development, respectively (and differ from each other as required by claim 3), where the first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 4, lines 29-31 and lines 56-58 where the steering wheel provides information regarding motor skills (i.e. when a child plays with the steering

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wheel it provides information of how developed the child's motor skills are), while the books provide information regarding sensory development (i.e. when a child plays with the books it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is shown in figure 1, where it is considered that since the structure is not attached to the floor or ground in any manner it is movable. The structure comprising a trailer, as required by claim 8, is shown in figures 1-4. The structure being self contained, as required by claim 9, is shown in figures 1-4. The structure being divided into at least four areas, as required by claim 10, is shown in figure 1, where the first area is the cab (2), the second area is the toy chest (9), the third area is the rear section including the desk (12) and the fourth area is the writing teaching station (18).

Claims 1-7, 9, 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoon '495. Yoon discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 9 and 10, tent and pocket 13, where the first area is read onto the pocket formed by the back section 15 and the front section 17 and the second area is read onto the sub-pocket assembly 40) as required by claims 1 and 13, a first three dimensional interactive aide (learning board 11) as required by claims 1 and 13-14, a second three dimensional interactive aide (balls 44) as required by claims 1 and 13-14. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 2, is shown in figure 9. A first and second educational aide providing information

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regarding a first aspect of child development and a second aspect of child development, respectively (and differ from each other as required by claim 3), where the first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 2, lines 52-60 and col. 4, lines 51-64 where the balls provide information regarding motor skills (i.e. when a child plays with the balls it provides information of how developed the child's motor skills are), while the indicia of the learning boards provide information regarding sensory development (i.e. when a child plays with the learning boards it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. The structure capable of being placed in a portable configuration, as required by claim 6, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. A structure being a tent, as required by claim 7, is shown in figure 1. The structure being self contained, as required by claim 9, is shown in figure 1. An educational apparatus comprising two or more three dimensional interactive educational aides, as required by claim 12, is shown in figure 9 as board 11 and balls 44. The three dimensional educational aides being related by common labeling, indicia or other insignia, as required by claim 12, is described in col. 2, lines 52-60.

Claims 1-2, 5, 8 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Fryer '995. Fryer discloses a structure containing all of the elements of the claims including, a structure divided into a first and second areas (figure 4, areas 64

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and 65) as required by claims 1 and 13, a first three dimensional interactive aide (a first computer in area 64 as described in col. 3, lines 30-33) as required by claims 1 and 13-14, a second three dimensional interactive aide (second computer in area 65) as required by claims 1 and 13-14. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 2, is shown in figure 4. The structure being movable, as required by claim 5, is shown in figure 1. A structure being a trailer, as required by claim 8, is shown in figure 1. Oversized furniture, as required by claim 15, is shown in figure 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon '495. Yoon discloses most of the elements of the claims, as stated above, and further including that the three-dimensional interactive aides of his invention can be customized to children of a variety of ages and variety of educational needs (col. 4, lines 20-26 and lines 60-64) and that it is known that a plurality of children may use a tent at the same time (col. 1, lines 26-27).

Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to incorporate a tent system having at least four areas (an area being designated by the zone that each child would be playing in, with the associated educational aides) for the purpose of providing a tent system where a plurality of children being of a variety of ages may be using the tent and the associated educational aides at the same time, especially since Yoon discloses that his tent structure can take on a variety of shapes and sizes (col. 3, lines 59-61)

Regarding the specific areas with respect to specific stage of development, since Yoon clearly teaches that his tent and educational aide structure envisions a variety of aged children using it (col. 4, lines 60-64), then it would have been obvious to provide the necessary aides specific to the age/stage development as defined in claim 11 in the associated play zones, as stated above.

Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamm et al '975. Stamm discloses a system and method facilitating early childhood brain development containing most of the elements of the claims including, preparing a structure having an area, as required by claim 16, (page 2, paragraph 0018) where it is considered that the structure is the daycare facility, school, home or any other structure encompassed therein and area is the area identified by placemat 108 as disclosed in page 13 paragraph 0117. The step of displaying a first 3-D interactive teaching aide (activity item 104 and associated instructional materials 106, page 3 paragraph 0026) in the first area and the step of displaying a second 3-D interactive teaching aide in the

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second area (activity items 104 and associated instructional materials 106, page 3 paragraph 0026), as required by claims 16 and 19, is described at page 3 in paragraph 0026. The teaching aides being adapted to provide information regarding an aspect of child development, as required by claims 16 and 19, is described at page 4 paragraph 0031. Allowing a user to interact with the teaching aides, as required by claims 16 and 19, is described at page 15 paragraphs [0138-0141]. Teaching aides providing information to the user in both audible and visible formats, as required by claims 18 and 21, is described at page 4 in paragraph 0032. Relating the teaching aides by common labeling, as required by claim 19, is shown in figures 2-8. Each of the areas being adapted to provide information pertaining to a different stage of child development, as required by claims 17 and 20, is described through the specification, for example at page 2 in paragraph 0019.

Although Stamm discloses most of the elements of the claims, as stated above, the reference fails to explicitly teach a first and second zone, as required by claim 16. However, since the system of Stamm clearly encompasses being used in a daycare facility or school, then it would have been obvious to utilize a plurality of the items encompassed in the system and a plurality of areas defined by placemats 108 for a plurality of groups of children where each group encompasses a different stage of development, especially since it is well known the day care facilities and school isolate children according to development stages (or age brackets).

Response to Arguments

Applicant's arguments filed October 1st, 2004 have been fully considered but they are not persuasive. Applicants argue that the Gibson reference provides information indirectly to an adult about child development through the associated device rather than directly to an adult user when an adult user interacts with the device. In response the examiner points out that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, the device of Gibson, when used by an adult, would most certainly convey information directly to the adult regarding an aspect of child development (i.e. the adult user would gain the understanding of what a child has to go through in order to learn directly from a child's vantage point, whether it is dexterity through the use of a steering wheel or cognitive development through the use of books or other toys).

Applicants argue that the Yoon reference provides information indirectly to an adult about child development through the associated device rather than directly to an adult user when an adult user interacts with the device. In response the examiners points out that the same reasoning applied above by the examiner (with respect to Gibson) is applicable to the Yoon reference. In other words, the device of Yoon, when

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used by an adult, would convey information directly to the adult regarding an aspect of child development (i.e. the adult user would gain the understanding of what a child has to go through in order to learn directly from a child's vantage point).

Applicants further argue that the Fryer '995 reference fails to disclose all of the elements of the claims and thus fails to anticipate the claims. As support for their arguments the applicants state the Fryer reference fails to disclose how the interactive aids provide information to adult users, that the computers of Fryer are not different from each other and that Fryer does not provide oversized furniture. In response the examiner respectfully points out that applicants claims do not in any way shape or form limit the "interactive educational aides" to being different from one another, in fact the only limitations encompassed by the claims is that there is a first and second instructional aid which Fryer clearly teaches, as stated above in the office action. With respect to functional limitation that of providing information to an adult user when used by the user, the examiner points out that, as with both the Yoon and Gibson references, when the computer learning tools/interactive aids are used by an adult, they would convey information directly to the adult regarding an aspect of child development (i.e. the adult user would gain the understanding of what a child has to go through in order to learn directly from a child's vantage point). Regarding the limitation of oversized furniture, the examiner points out that Fryer clearly teaches a corner desk where it is considered that such a desk is over sized since it has two desk portions combined to form an L-shape and thus are larger than a singular-non-corner (or standard desk) and thus fits the broad limitation of being oversized.

Applicants further argue that claims 10 and 11 are not obvious over Yoon. The examiner disagrees and directs applicants attention to the above rejection which clearly provides the motivation for making a prima facie case of obviousness for claims 10 and 11 over Yoon. Additionally it is pointed out that Stamm '975 (relied upon as extrinsic evidence for claims 10 and 11) clearly teaches that it is known interactive aides for children of predetermined stage development.

Applicants further argue that the Stamm reference does not disclose that information regarding a childs development is provided directly to an adult user. In response the examiner points out that the applicants have not claimed any active method step of providing an adult user with any sort of information but rather have formulated their claims with functional recitations and which do not serve to define over the prior art as the structure of the Stamm reference is clearly capable of fulfilling the claimed function (i.e. the adult user would gain the understanding of what a child has to go through in order to learn directly from a child's vantage point).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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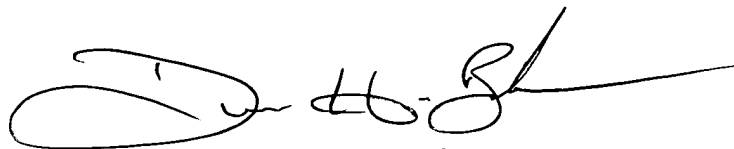
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-273-4430. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

A handwritten signature in black ink, appearing to read 'D. H. Banks', with a long horizontal line extending to the right.

DERRIS H. BANKS
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